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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/690,159 | 10/17/2000 | Oleg B. Rashkovskiy | INTL-0472-US (P10019) | 2744 |
| 21906 | 7590 | 11/17/2005 | EXAMINER | |
| TROP PRUNER & HU, PC 8554 KATY FREEWAY SUITE 100 HOUSTON, TX 77024 | | | VU, NGOC K | |
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| | | | 2611 | |

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/690,159

Applicant(s)

RASHKOVSKIY, OLEG B.

Examiner

Ngoc K. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 44-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9/9/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/9/05 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 44-71 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

3. Claim 53 is objected to because of the following informalities: it appears that the terms "receiving storing instructions" seem to refer *receiving instructions* or *storing instructions*.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 44-52, 54-62, and 64-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Picco et al. (US 6,029,045 A) in view of Zigmond et al. (US 6,698,020 B1).

Regarding **claim 44**, Picco discloses a method comprising:

receiving content (programming data) and at least two advertisements (local content data included a plurality of advertisements) on a content receiver (set top box) (see col. 6, lines 19-23; col. 4, lines 45-50 and 57-61);

storing the content, including an interruptible content portion (local content space), and advertisements in a cache (i.e., a storage 186) coupled to said receiver (storing the programming data and local content data in the storage 186 of the set top box. The set top box may spool the programming data to the storage, i.e., disk 186, and then play back the stored programming. It is noted that the programming data includes local content space(s) for inserting local content at the set top box. The set top box also determines which pieces of local content, i.e., advertisements, are going to be stored in the storage of the set top box – see col. 6, lines 19-40; col. 8, lines 7-22; col. 9, lines 41-43; col. 12, lines 49-52; col. 13, lines 27-32 and 40-42; col. 14, lines 28-40);

selecting an advertisement based on a content characteristic (selecting local content, i.e., an advertisement, based on preselected criteria such as user preferences – see col. 6, lines 34-40; col. 12, lines 39-49; col. 13, lines 36-65; col. 14, lines 45-49), and

finding a place to insert the selected advertisement in said portion while said portion is still stored in said cache (the programming data and the local content are downloaded to the set top box and stored in the storage of the set top box as addressed above. The local content space in the programming data may include control data which indicates which type of local content, i.e., advertisement, may be inserted in that particular local content space. The set top box then uses the control data in the local content space to determine which local content is inserted into a particular spot in the programming data - see col. 6, lines 34-40; col. 8, lines 16-21; col. 9, line 67 to col. 10, line 18);

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inserting the selected advertisement in said portion (inserting the selected local content, i.e., advertisement, in the local content space or the particular spot in the programming data – see col. 6, lines 34-40; col. 8, lines 16-21; col. 9, line 67 to col. 10, line 18); and

outputting for display said portion with said inserted advertisement (see col. 6, lines 37-40; col. 12, lines 24-40; col. 14, lines 42-50).

Picco does not explicitly disclose selecting the advertisement based on a content characteristic specified by an advisement provider. However, Zigmond teaches that an advertisement is selected according to criteria result in efficient targeting of advertisement to an individual viewer. The criteria includes advertisement parameters associated with particular advertisements that are generally assigned by the advertiser, operator of the advertising source or the content provider (see col. 7, lines 30-36; col. 8, lines 15-28; col. 11, lines 37-42; col. 12, lines 15-25). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Picco by selecting an advertisement based on content characteristic, i.e., advertisement parameters, specified by an advertiser or content provider as disclosed by Zigmond in order to effectively tailor advertisements to the interests and needs of the viewers.

Regarding **claim 54**, Picco discloses an medium (within CPU – see figure 7) for storing instructions (i.e., software) that, if executed enable a processor-based (set top box) system to:

receive content (programming data) and at least two advertisements (local content data included a plurality of advertisements) on a content receiver (set top box) (see col. 6, lines 19-23; col. 4, lines 45-50 and 57-61);

store the content, including an interruptible content portion (local content space), and advertisements in a cache (i.e., a storage 186) coupled to said receiver (storing the programming data and local content data in the storage 186 of the set top box. The set top box

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may spool the programming data to the storage, i.e., disk 186, and then play back the stored programming. It is noted that the programming data includes local content space(s) for inserting local content at the set top box. The set top box also determines which pieces of local content, i.e., advertisements, are going to be stored in the storage of the set top box – see col. 6, lines 19-40; col. 8, lines 7-22; col. 9, lines 41-43; col. 12, lines 49-52; col. 13, lines 27-32 and 40-42; col. 14, lines 28-40);

select an advertisement based on a content characteristic (selecting local content, i.e., an advertisement, based on preselected criteria such as user preferences – see col. 6, lines 34-40; col. 12, lines 39-49; col. 13, lines 36-65; col. 14, lines 45-49), and

find a place to insert the selected advertisement in said portion while said portion is still stored in said cache (the programming data and the local content are downloaded to the set top box and stored in the storage of the set top box as addressed above. The local content space in the programming data may include control data which indicates which type of local content, i.e., advertisement, may be inserted in that particular local content space. The set top box then uses the control data in the local content space to determine which local content is inserted into a particular spot in the programming data - see col. 6, lines 34-40; col. 8, lines 16-21; col. 9, line 67 to col. 10, line 18);

insert the selected advertisement in said portion (inserting the selected local content, i.e., advertisement, in the local content space or the particular spot in the programming data – see col. 6, lines 34-40; col. 8, lines 16-21; col. 9, line 67 to col. 10, line 18); and

output for display said portion with said inserted advertisement (see col. 6, lines 37-40; col. 12, lines 24-40; col. 14, lines 42-50).

Picco does not explicitly disclose selecting the advertisement based on a content characteristic specified by an advertisement provider. However, Zigmond teaches that an

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advertisement is selected according to criteria result in efficient targeting of advertisement to an individual viewer. The criteria includes advertisement parameters associated with particular advertisements that are generally assigned by the advertiser, operator of the advertising source or the content provider (see col. 7, lines 30-36; col. 8, lines 15-28; col. 11, lines 37-42; col. 12, lines 15-25). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Picco by selecting an advertisement based on content characteristic, i.e., advertisement parameters, specified by an advertiser or content provider as disclosed by Zigmond in order to effectively tailor advertisements to the interests and needs of the viewers.

Regarding **claims 45 and 55**, Picco as modified by Zigmond further discloses that the advertiser may specify a particular advertisement to be shown during a particular program is broadcast. The particular advertisement is selected according to a particular program being viewed based on content rating (see Zigmond: col. 12, lines 15-18 and 47-51; col. 13, lines 48-51).

Regarding **claims 46 and 56**, Picco as modified by Zigmond further discloses comparing the content ratings of the advertisement specified by the advertiser to content rating of video programming being viewed (see Zigmond: col. 12, lines 15-18; col. 13, lines 48-57).

Regarding **claims 47 and 57**, Picco as modified by Zigmond further discloses selecting an advertising based on subject matter specified by the advertisement provider (see Zigmond: col. 12, lines 15-18 and 60-62).

Regarding **claims 48-49 and 58-59**, Picco as modified by Zigmond further discloses the subject matter of the television program may be identified using the descriptions in the electronic program database 81, by monitoring the contents of the closed captioning information

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that is broadcast with the video and audio portions of the television program (see Zigmond: col. 13, lines 1-6).

Regarding **claims 50 and 60**, Picco discloses storing a variety of content types, i.e., web and/or programming data, and allowing any one of the content type, i.e., programming data, to be selected for play at any time (see col. 13, lines 26-32; col. 14, lines 33-37).

Regarding **claims 51 and 61**, Picco teaches receiving interruption instructions (i.e., command/control data) at a program guide and forwarding the interruption instructions to an interface (i.e., CPU), said interface monitoring for criteria that determined when content (i.e., programming data) is able to be interrupted (see Picco: col. 8, lines 36-39 and 60-64).

Regarding **claims 52 and 62**, Picco teaches that receiving interruption instructions (command/control data) includes receiving interruption instructions over a back channel (see col. 9, lines 34-37).

Regarding **claim 64**, Picco discloses a system (figure 7) comprising:

a receiver (set top box) to receive content (programming data), including an interruptible content portion (it is noted that the programming data includes local content space(s) for inserting local content), and at least two advertisements (local content data included a plurality of advertisements) on a content receiver (set top box) (see col. 6, lines 19-23 and 34-40; col. 4, lines 45-50 and 57-61);

a cache (storage 186), coupled to said receiver, store the content and advertisements in (storing the programming data and local content data in the storage 186 of the set top box. The set top box may spool the programming data to the storage, i.e., disk 186, and then play back the stored programming. The set top box also determines which pieces of local content, i.e., advertisements, are going to be stored in the storage of the set top box – see col. 6, lines 19-40;

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col. 8, lines 7-22; col. 9, lines 41-43; col. 12, lines 49-52; col. 13, lines 27-32 and 40-42; col. 14, lines 28-40); and

an interface (splicer/CPU), in said receiver, to select an advertisement based on a content characteristic (selecting local content, i.e., an advertisement, based on preselected criteria such as user preferences – see col. 6, lines 34-40; col. 12, lines 39-49; col. 13, lines 36-65; col. 14, lines 45-49) and to find a place to insert the selected advertisement in said portion while said portion is still stored in said cache (the programming data and the local content are downloaded to the set top box and stored in the storage of the set top box as addressed above. The local content space in the programming data may include control data which indicates which type of local content, i.e., advertisement, may be inserted in that particular local content space. The set top box then uses the control data in the local content space to determine which local content is inserted into a particular spot in the programming data - see col. 6, lines 34-40; col. 8, lines 16-21; col. 9, line 67 to col. 10, line 18); insert the selected advertisement in said portion (inserting the selected local content, i.e., advertisement, in the local content space or the particular spot in the programming data – see col. 6, lines 34-40; col. 8, lines 16-21; col. 9, line 67 to col. 10, line 18) and output for display said portion with said inserted advertisement (see col. 6, lines 37-40; col. 12, lines 24-40; col. 14, lines 42-50).

Picco does not explicitly disclose selecting the advertisement based on a content characteristic specified by an advertisement provider. However, Zigmond teaches that an advertisement is selected according to criteria result in efficient targeting of advertisement to an individual viewer. The criteria includes advertisement parameters associated with particular advertisements that are generally assigned by the advertiser, operator of the advertising source or the content provider (see col. 7, lines 30-36; col. 8, lines 15-28; col. 11, lines 37-42; col. 12, lines 15-25). Therefore, it would have been obvious to one of ordinary skill in the art at the time

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the invention was made to modify the system of Picco by selecting an advertisement based on content characteristic, i.e., advertisement parameters, specified by an advertiser or content provider as disclosed by Zigmond in order to effectively tailor advertisements to the interests and needs of the viewers.

Regarding **claim 65**, Picco discloses the system is a television receiver (see col. 10, lines 34-48; col. 4, lines 32-34).

Regarding **claim 66**, the combined teachings of Picco and Zigmond include receiving interruption instructions (command/control data) over a back channel about when to insert the selected advertisement (see Picco: col. 9, lines 34-37 and Zigmond: col. 15, lines 57-61).

Regarding **claim 67**, Picco discloses a device (CPU) that parses content from instructions for inserting a selected advertisement (see col. 11, lines 49-51; col. 12, lines 25-30).

Regarding **claim 68**, Picco discloses said device (CPU) also parses content for how to store the content and advertisement (see col. 11, lines 40-44; col. 10, lines 5-18).

Regarding **claim 69**, Picco discloses a content guide software (command/control data) that receives interruption instructions for interrupting content and replacing content with a selected advertisement (see col. 8, lines 15-22 and 36-39).

Regarding **claims 70**, Picco as modified by Zigmond further discloses that the advertiser may specify a particular advertisement to be shown during a particular program is broadcast. The particular advertisement is selected according to a particular program being viewed based on content rating (see Zigmond: col. 12, lines 15-18 and 47-51; col. 13, lines 48-51).

Regarding **claim 71**, Picco as modified by Zigmond further discloses selecting an advertising based on subject matter specified by the advertisement provider (see Zigmond: col. 12, lines 15-18 and 60-62).

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6. Claims 53 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Picco et al. (US 6,029,045 A) in view of Zigmond et al. (US 6,698,020 B1) and further in view of Mendelson et al. (US 3,594,732 A).

Regarding **claims 53 and 63**, Picco discloses storing the content and the advertisement in the storage (see col. 8, lines 7-11; col. 9, lines 43-48; col. 11, lines 40-42; col. 12, lines 39-41). Picco does not teach executing instructions enable distributing a particular content item to a variety of locations on the cached. Mendelson teaches that instructions are provided which cause contents in memory locations to be relocated for storage into other memory locations (see col. 28, lines 26-53). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combined systems of Picco and Zigmond by executing instructions which cause the contents to be relocated for storage into other memory locations for purpose of securing data or contents in the memory.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ngoc K. Vu
Primary Examiner
Art Unit 2611

November 11, 2005